

Judge Farrer held an evidentiary hearing on the § 2255 Motion, at which counsel for both parties appeared. (ECF Nos. 88 & 90). Sanchez Benitez appeared personally, and Mr. Baez testified as a witness. Following the hearing, Judge Farrer issued a Report and Recommendation concluding that Mr. Baez rendered ineffective assistance of counsel for failing to adequately consult with Sanchez Benitez about an appeal. (ECF No. 91). Accordingly, Judge Farrer recommends that this Court dismiss the § 2255 Motion without prejudice and grant Sanchez Benitez an out-of-time appeal. Judge Farrer further recommends that this Court appoint attorney George William Aristotelidis to represent Sanchez Benitez on appeal.

Pursuant to 28 U.S.C. § 636(b), a party may serve and file specific, written objections to the proposed findings and recommendations of the Magistrate Judge within fourteen days after being served with a copy of the Report and Recommendation and secure a de novo review by the district court. A party's failure to timely file written objections to the proposed findings, conclusions, and recommendations in a report and recommendation bars that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc).

All parties were notified of the Report and Recommendation and informed of the consequences of a failure to file objections. To date, no party has filed objections to the findings of fact and conclusions of law in the Report and Recommendation. The Court, having reviewed the record and finding no plain error, accepts and adopts the Report and Recommendation of the Magistrate Judge.

Accordingly,

IT IS ORDERED that the Report and Recommendation of the United States Magistrate Judge (ECF No. 91) is **ACCEPTED AND ADOPTED**, and Movant Robert Ignacio Sanchez Benitez's Motion to Vacate, Set Aside, or Correct Sentence Under 28 U.S.C. § 2255 (ECF No. 68) is **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that Sanchez Benitez is **GRANTED AN OUT-OF-TIME APPEAL**.

IT IS FURTHER ORDERED that attorney George William Aristotelidis is appointed to represent Sanchez Benitez on appeal.

IT IS FURTHER ORDERED that the Clerk of Court re-enter the criminal judgment on the docket, thereby restarting the time for appeal under Federal Rule of Appellate Procedure 4(b)(1)(A). *See United States v. Gaytan-Ortiz*, 308 F. App'x 798, 800 (5th Cir. 2009) (citations omitted).

IT IS FURTHER ORDERED that all pending motions related to Sanchez Benitez's Section 2255 Motion, if any, are **DENIED AS MOOT**, and this case is now **CLOSED**.

IT IS FINALLY ORDERED that, to the extent necessary, a certificate of appealability is **DENIED**.

It is so **ORDERED**.

SIGNED on this 15 day of August, 2024.

A handwritten signature in blue ink, appearing to read "Orlando L. Garcia", is written above a horizontal line.

ORLANDO L. GARCIA
UNITED STATES DISTRICT JUDGE